

# HOTEL OCCUPANCY TAX

## Table of Contents

<b>Section</b>	<b>Page</b>
700. <b>DEFINITIONS</b> .....	<b>2</b>
701. <b>TAX IMPOSED</b> .....	<b>2</b>
702. <b>RATE OF TAX</b> .....	<b>2</b>
703. <b>COLLECTION OF TAX</b> .....	<b>2</b>
704. <b>EXCEPTION: PERMANENT RESIDENT</b> .....	<b>2</b>
705. <b>EXCEPTION: NAVAJO NATION</b> .....	<b>2</b>
706. <b>RETURN AND PAYMENT</b> .....	<b>2</b>
707. <b>ADMINISTRATION</b> .....	<b>2</b>
708. <b>REIMBURSEMENT FOR TAX COLLECTION</b> .....	<b>3</b>
709. <b>RESERVED</b> .....	<b>3</b>
710. <b>RECORDKEEPING</b> .....	<b>3</b>
711. <b>RESERVED</b> .....	<b>3</b>
712. <b>RESERVED</b> .....	<b>3</b>
713. <b>RESERVED</b> .....	<b>3</b>
714. <b>RESERVED</b> .....	<b>3</b>
715. <b>RESERVED</b> .....	<b>3</b>
716. <b>RESERVED</b> .....	<b>3</b>
717. <b>RESERVED</b> .....	<b>3</b>
718. <b>RESERVED</b> .....	<b>3</b>
719. <b>RESERVED</b> .....	<b>3</b>
720. <b>RESERVED</b> .....	<b>3</b>
721. <b>RESERVED</b> .....	<b>3</b>
722. <b>RESERVED</b> .....	<b>3</b>
723. <b>RESERVED</b> .....	<b>3</b>
724. <b>RESERVED</b> .....	<b>3</b>
725. <b>RESERVED</b> .....	<b>3</b>
726. <b>RESERVED</b> .....	<b>3</b>
727. <b>RESERVED</b> .....	<b>3</b>
728. <b>RESERVED</b> .....	<b>3</b>
729. <b>RESERVED</b> .....	<b>4</b>
730. <b>RESERVED</b> .....	<b>4</b>
731. <b>RESERVED</b> .....	<b>4</b>
732. <b>RESERVED</b> .....	<b>4</b>
733. <b>RESERVED</b> .....	<b>4</b>
734. <b>RESERVED</b> .....	<b>4</b>
735. <b>RESERVED</b> .....	<b>4</b>
736. <b>RESERVED</b> .....	<b>4</b>
737. <b>RESERVED</b> .....	<b>4</b>
738. <b>SEVERABILITY</b> .....	<b>4</b>
739. <b>EFFECTIVE DATES</b> .....	<b>4</b>
740. <b>REPEALS</b> .....	<b>4</b>
741. <b>ALLOCATION</b> .....	<b>4</b>

700. **DEFINITIONS**

- A. "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist court, lodging house, inn, or rooming house, but does not include a hospital, sanitarium, or nursing home.
- B. "Branch" means any person owning, operating, managing or controlling any hotel.
- C. "Period" means a calendar quarter or any other reporting period established by regulation.

701. **TAX IMPOSED**

- A. A tax is imposed on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room or space in a hotel costing \$2 or more each day.
- B. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

702. **RATE OF TAX**

The rate of the tax imposed by this Chapter is five percent (5%) of the price paid for a room in a hotel. On January 1, 1994, the rate of the tax imposed by this Chapter will increase to eight percent (8%) of the price paid for a room in a hotel.

703. **COLLECTION OF TAX**

A branch owning, operating, managing, or controlling a hotel shall collect for the Commission the tax that is imposed by this Chapter and that is calculated on the amount paid for room in the hotel.

704. **EXCEPTION: PERMANENT RESIDENT**

This Chapter does not impose a tax on a person who has the right to use or possess a room in a hotel for at least 30 consecutive days.

705. **EXCEPTION: NAVAJO NATION**

Nothing in this Chapter shall be construed as imposing a tax on the government of the Navajo Nation. For the purposes of this Chapter, the term Navajo Nation does not include tribal enterprises.

706. **RETURN AND PAYMENT**

On the last day of each period, a branch required to collect the tax imposed by this Chapter shall pay the Commission the tax collected during the preceding period, and at the same time shall file with the Commission a return stating:

- A. The total amount of the payments made for rooms at the branch's hotel during the preceding period;
- B. The amount of the tax collected by the branch during the preceding period; and
- C. Other information that the Commission requires to be in the return. Provided, that the Commission shall be authorized to assess against a branch responsible for the collection of taxes under this Chapter, and that such assessments are presumed to be correct.

707. **ADMINISTRATION**

The provisions of Chapter 1, the Uniform Tax Administration Statute, shall apply to this Chapter.

708. **REIMBURSEMENT FOR TAX COLLECTION**

The branch required to file a return under this Chapter may deduct and withhold from the taxes otherwise due to the Navajo Nation on the quarterly return, as reimbursement for the cost of collecting the tax, one percent (1%) of the amount of the tax due as shown on the return. If taxes due under this Chapter are not paid to the Navajo Nation within the time required or if the branch required to file a return fails to file the return when due, the branch forfeits the claim to reimbursement that could have been taken if the tax had been paid or the return filed when due.

709. **RESERVED**

710. **RECORDKEEPING**

Records required to be kept must be preserved for six years beyond the time payment of tax is made, or if no payment is due, for six years beyond the end of the period to which the records relate.

711. **RESERVED**

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725. **RESERVED**

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738. **SEVERABILITY**

If any provision of this Chapter, as amended, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

739. **EFFECTIVE DATES**

This Chapter shall take effect upon approval by the Navajo Nation Council. The tax imposed by this Chapter shall be due and payable for calendar quarters beginning January 1, 1993.

740. **REPEALS**

All laws or parts of laws (or attachments thereto) which are inconsistent with the provisions of this Chapter are hereby repealed, including, without limitation, any law purporting to waive any right of taxation by the Navajo Nation.

741. **ALLOCATION**

A. Except as provided in subsection B, the tax imposed by this Chapter is imposed for the purposes of promoting tourism and tourism development. To accomplish this end, this tax shall be retained in a special fund entitled the "Navajo Nation Tourism Fund" which shall be administered by the Navajo Tourism Department, and which shall, consistent with the laws of the Navajo Nation and utilizing the prudent person rule, be applied for the advancement of local tourism promotion, and to develop projects throughout the Navajo Nation. The Division of Economic Development and the Navajo Tourism Department are hereby authorized to develop and recommend to the Budget and Finance Committee of the Navajo Nation Council the Fund's management plan.

B. Any tax imposed by this Chapter that is collected within any duly established Navajo Tribal Park shall be retained within the Navajo Nation Tourism Fund for the exclusive use of the Navajo Parks and Recreation Department for maintenance and improvement of facilities within Navajo Tribal Parks, in accordance with the fund management plan for the Navajo Nation Tourism Fund, which shall be amended by the Budget and Finance Committee to accommodate this provision.